

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE APRIL 29, 2003

SENATE BILL

No. 745

Introduced by Senator Ashburn

February 21, 2003

An act to amend Sections 66418.2 and 66426 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 745, as amended, Ashburn. Environmental subdivision.

(1) Under the Subdivision Map Act, a local agency may, prior to January 1, 2005, approve or approve conditionally an environmental subdivision, which is defined as a subdivision of land for biotic and wildlife purposes, if the local agency finds that specified conditions have been met.

This bill would extend indefinitely the authority of a legislative body to approve or conditionally approve an environmental subdivision *and would revise the conditions that are required to be met prior to the local agency approving or conditionally approving the environmental subdivision.*

(2) The Subdivision Map Act, until January 1, 2003, excepts, among other things, land being subdivided solely for the creation of an environmental subdivision from the requirement of a tentative and final map when 5 or more parcels are created.

This bill would delete the January 1, 2003, termination date from the exception.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 66418.2 of the Government Code is amended to read:

66418.2. (a) “Environmental subdivision” means a subdivision of land pursuant to this division for biotic and wildlife purposes that meets all of the conditions specified in subdivision (b).

(b) Prior to approving or conditionally approving an environmental subdivision, the local agency shall find each of the following:

(1) That factual biotic or wildlife data, or both, are ~~or will be~~ available to the local agency ~~approving the environmental subdivision to support the application for approval to support the approval of the subdivision, prior to approving or conditionally approving the environmental subdivision.~~

(2) That provisions have been made for the perpetual maintenance of the property as a biotic or wildlife habitat, or both, in accordance with the conditions specified by any local, state, or federal agency requiring mitigation.

(3) That an easement will be recorded in the county in which the land is located to ensure compliance with the conditions specified by any local, state, or federal agency requiring the mitigation. The easement shall contain a covenant with a county, city, or nonprofit organization running with the land in perpetuity, that the landowner shall not construct or permit the construction of improvements except those for which the right is expressly reserved in the instrument. *Where the biotic or wildlife habitat, or both, are compatible, the local agency shall consider requiring the easement to contain a requirement for the joint management and maintenance of the resulting parcels.* This reservation shall not be inconsistent with the purposes of this section and shall not be incompatible with maintaining and preserving the biotic or wildlife character, or both, of the land.

(4) The real property is at least 20 acres in size, or if it is less than 20 acres in size, the following conditions are met:

(A) The land is contiguous to other land that would also qualify as an environmental subdivision.

(B) The other land is subject to a recorded perpetual easement that restricts its use to a biotic or wildlife habitat, or both.

1 (C) The total combined acreage of the lands would be 20 acres
2 or more.

3 (D) *Where the biotic or wildlife habitat, or both, are*
4 *compatible, the land and the other land will be jointly managed*
5 *and maintained.*

6 (c) Notwithstanding subdivision (a) of Section 66411.1, any
7 improvement, dedication, or design required by the local agency
8 as a condition of approval of an environmental subdivision shall
9 be solely for the purposes of ensuring compliance with the
10 conditions required by the local, state, or federal agency requiring
11 the mitigation.

12 (d) After recordation of an environmental subdivision, a
13 subdivider may only abandon an environmental subdivision by
14 reversion to acreage pursuant to Chapter 6 (commencing with
15 Section 66499.11) if the local agency finds that all of the following
16 conditions exist:

17 (1) None of the parcels created by the environmental
18 subdivision has been sold or exchanged.

19 (2) None of the parcels is being used, set aside, or required for
20 mitigation purposes pursuant to this section.

21 (3) Upon abandonment and reversion to acreage pursuant to
22 this subdivision, the easement for biotic and wildlife purposes is
23 extinguished.

24 (e) If the environmental subdivision is abandoned and reverts
25 to acreage pursuant to subdivision (d), all local, state, and federal
26 requirements shall apply.

27 (f) This section shall apply only upon the written request of the
28 landowner at the time the land is divided. This section is not
29 intended to limit or preclude subdivision by other lawful means for
30 the mitigation of impacts to the environment, or of the land
31 devoted to these purposes, or to require the division of land for
32 these purposes.

33 SEC. 2. Section 66426 of the Government Code is amended
34 to read:

35 66426. A tentative and final map shall be required for all
36 subdivisions creating five or more parcels, five or more
37 condominiums as defined in Section 783 of the Civil Code, a
38 community apartment project containing five or more parcels, or
39 for the conversion of a dwelling to a stock cooperative containing

1 five or more dwelling units, except where any one of the following
2 occurs:

3 (a) The land before division contains less than five acres, each
4 parcel created by the division abuts upon a maintained public street
5 or highway, and no dedications or improvements are required by
6 the legislative body.

7 (b) Each parcel created by the division has a gross area of 20
8 acres or more and has an approved access to a maintained public
9 street or highway.

10 (c) The land consists of a parcel or parcels of land having
11 approved access to a public street or highway, which comprises
12 part of a tract of land zoned for industrial or commercial
13 development, and which has the approval of the governing body
14 as to street alignments and widths.

15 (d) Each parcel created by the division has a gross area of not
16 less than 40 acres or is not less than a quarter of a quarter section.

17 (e) The land being subdivided is solely for the creation of an
18 environmental subdivision pursuant to Section 66418.2.

19 (f) A parcel map shall be required for those subdivisions
20 described in subdivisions (a), (b), (c), (d), and (e).

